PUBLIC NOTICE

US Army Corps of Engineers®

Public Notice/Application No.: 200500058-YJC
Comment Period: 10/02/2006 through 11/01/2006
Project Manager: Jae Chung (213) 452-3292 yong.j.chung@usace.army.mil

Applicant
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Location

In unnamed tributaries to the Peters Canyon Wash on the former Tustin Marine Corps Air Station (MCAS) in Tustin, Orange County, California (at: lat:33-42-14.0040 lon:117-50-2.0040)

Activity

To permanently discharge fill materials into 2.24 acres of waters of the U.S. and temporarily discharge fill materials into 13.88 acres of waters of the U.S. associated with the development o the Tustin Legacy Master Developer Site (see Figures 1 and 2). For more information see page 3 of this notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Branch
ATTN: CESPL-CO-R-200500058-YJC
P.O. Box 532711
Los Angeles, California 90053-2325

Alternatively, comments can be sent electronically to: yong.j.chung@ usace.army.mil

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work of discharging dredged and/or fill materials into waters of the U.S. The Department of the Navy (DoN) had published a final environmental impact statement/environmental impact report (EIS/EIR) in 1999 for the disposal and reuse of the Tustin MCAS.

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

Coastal Zone Management- For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan. This project is located outside the coastal zone and preliminary review indicates that it will not affect coastal zone resources. A final determination of whether this project affects coastal zone resources will be made by the Corps, in consultation with the California Coastal Commission, after review of the comments received on this Public Notice.

Cultural Resources- According to the MCAS EIS/EIR, for the disposal and reuse of the Tustin MCAS Tustin, six archaeological surveys were conducted at the former Tustin MCAS site. One archaeological site was identified, however it was reported that the site had been destroyed prior to

1971 during the construction of two large concrete tanks. In 1988, the State Historic Preservation Office (SHPO) provided written concurrence that all open space on MCAS Tustin had been adequately surveyed for archaeological resources. The Tustin MCAS base contains two large blimp hangars, which are over 175 feet high and 1,000 feet long. These wood frame structures were built in 1942 and are listed on the National Register of Historic Places. One of the hangars (hangar 28) is not located within the project site and the other hangar (hanger 29) is located within the project site but outside of the Corps scope of analysis.

As part of the DoN's disposal of MCAS Tustin, the DoN was responsible for compliance with Section 106 of the National Historic Preservation Act. Pursuant to Section 106, SHPO, the Advisory Council on Historic Preservation, the DoN, the City of Tustin, and the County of Orange executed a Memorandum of Agreement (MOA) that identifies measures to mitigate the effects of the destruction of portions of the eligible historic district, including the hangars. If financially feasible for adaptive reuse, both blimp hangars would be preserved. Since certification of the EIS/EIR, and in compliance with the MOA between the DoN, the California SHPO and the Advisory Council on Historic Preservation, the City of Tustin completed a marketing study for Hanger 29, and is in the process of assessing the economic viability for this hangar, which is within the project footprint. Hangar 29 is located in the center of the project site and the project is designed to avoid the hanger pending the completion of the MOA requirements. The internal streets and most notably the alignment of Tustin Ranch Road, the major access to the Site, are designed to avoid the hangar.

Endangered Species- Preliminary determinations indicate that the proposed activity would not affect federally-listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under Section 7 of the Endangered Species Act does not appear to be required at this time.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent. The basic project purpose for the proposed project is to construct housing and construct commercial businesses, neither of which are water dependent. Consequently the applicant must rebut the presumption that there is not a less environmentally damaging alternative.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to construct a financially viable residential/commercial development within the City of Tustin sphere of influence consisting of about 2000 residential units, about 6-7 million square feet of commercial development, institutional uses, and parks and open space.

The applicant proposes to discharge fill materials into waters of the U.S. resulting in 2.24 acres of permanent impacts and 13.88 acres of temporary impacts (Figure 3). Permanent impacts would consist of discharge of fill material of approximately 0.57 acre of wetlands in drainages B and B3 and

approximately 1.67 acres of non-wetland waters including un-vegetated drainage ditches, Barranca Channel, and a Santa Ana/Santa Fe Channel (Table 1). The small drainage ditches would be filled and/or replaced with a constructed storm drain system. Barranca Channel would be replaced by an underground storm drain to facilitate the required widening of Barranca Parkway. A culvert would be constructed across Santa Ana/Santa Fe Channel.

Temporary impacts would involve widening of Peters Canyon Channel (Table 2). Peters Canyon Channel currently consists of riprap sides and soft bottom approximately 70 to 76 feet wide. Peters Canyon Channel is maintained by the Orange County Flood Control District (OCFCD) and contains limited wetland habitat. The channel is proposed to be widened approximately 40 feet, for a total of 180 feet from top of slope to top of slope (right of way totals 220 feet) and approximately 117-foot wide soft-bottom (Figure 4). The final channel design has to be accepted by the OCFCD. The existing rip-rap sides are expected to be replaced with concrete sides and the soft-bottom would be maintained. Portions of the Peters Canyon Channel improvements would be less than the improved width shown on the cross section, specifically at the upstream and downstream transitions points and bridge crossing locations. Improvements to Peters Canyon Channel are required pursuant to the Cooperative Agreement between the County of Orange and the OCFCD.

Table 1. Non-wetland and wetland waters of the U.S. existing and proposed for impacts within the Tustin Legacy Master Developer Site.

	Existing		**Permanent Impacts**		**Temporary Impacts**	
Waterbody	**Non-wetland waters**	**Wetland**	**Non-wetland waters**	**Wetland**	**Non-wetland waters**	**Wetland**
Peters Canyon Channel (City of Tustin)	7.76	0.03	0	0	7.76	0.03
Peters Canyon Channel (City of Irvine)	6.01	0.08	0	0	6.01	0.08
Barranca Channel	1.19	0	1.19	0	0	0
Santa Ana/Santa Fe Channel	0.58	0	0.06	0	0	0
Drainage A	0.10	0	0.10	0	0	0
Drainage A1	0.20	0	0.20	0	0	0
Drainage B	0	0.15	0	0.15	0	0
Drainage B2	0.05	0	0.05	0	0	0
Drainage B2-A	0.03	0	0.03	0	0	0
Drainage B3	0	0.42	0	0.42	0	0
Drainage B4	0.04	0	0.04	0	0	0
Sub-Totals	15.96	0.68	1.67	0.57	13.77	0.11
Total	**16.64**		**2.24**		**13.88**	

Additional Project Information

Existing Conditions- The 820-acre project site is located south of the Interstate 5 and Costa Mesa 55 Freeway intersection, and north of Interstate 405. The site is bounded by Barranca Parkway and the Barranca Channel to the southwest, Redhill Avenue to the northwest, Edinger Avenue and the Santa Ana/Santa Fe Channel to the northeast, and Jamboree Road and Peters Canyon Wash to southeast.

The site consists of vacant Department of the Navy facilities including airfields, training grounds, housing, maintenance and storage facilities, and fallow agricultural fields. The largest

single structure onsite is a blimp hangar, which is over 175 feet high and 1,000 feet long. The airfields include circular concrete pads for blimp and helicopter use and a liner runway for helicopters. The Department of the Navy is in the process of completing environmental cleanup activities for past releases of hazardous substances.

There are a total of 16.64 acres of waters of the U.S. on the project site, including 0.68 acre of wetlands. Wetlands are confined to patchy cattail wetlands in Peters Canyon Channel, 0.15 acre of willow scrub in Drainage B, and 0.42 acre of cattail marsh within Drainage B3. Outside of Peters Canyon Channel, the most natural wetland appears to be the southern willow scrub in Drainage B. The cattail wetlands in Drainage B3 appear to be created by the discharge from dewatering operations. The remaining minor drainages consist of former agricultural drainages with no wetland vegetation. The major channels on the project site are Peters Canyon Channel, Barranca Channel, and Santa Ana/Santa Fe Channel. Santa Ana/Santa Fe Channel has riprap sides and bottom. Peters Canyon Channel and Barranca Channel have riprap sides and a soft bottom.

Surface Drainage- The site contains two sub-watershed areas: the Peters Canyon sub-watershed and the Barranca Channel sub-watershed. Approximately 70% of the site drains to Peters Canyon Channel via open channel and subsurface storm drain systems. The remainder of the site drains to Barranca Channel via a combination of open channel and closed storm drain system. Both Barranca Channel and Peters Canyon Channel are tributary to San Diego Creek downstream of the site. According to the applicant, Barranca Channel and Peters Canyon Channel are currently undersized and cannot accommodate the 100-year high confidence event as required by OCFCD.

Regional drainage improvements are proposed to address existing deficiencies and flood hazard improvements, in compliance with the Orange County Master Plan. Surface flows would be routed to Barranca Channel and Peters Canyon Wash by the proposed storm drain system and groundwater flows may be similarly routed by the sub-drain system. Since Barranca Channel is currently undersized, additional runoff generated by the project cannot be discharged to Barranca Channel without either on-site detention or downstream channel improvements. Downstream channel improvements would likely require additional right-of-way to be acquired from existing business. In addition, the cost to construct the necessary channel improvements is prohibitive. Therefore on-site detention is proposed to reduce peak run-off. Due to the high groundwater table the detention basin is limited to a shallow, wide feature.

Improvements to Barranca Parkway are required though a joint agreement between the City of Irvine and the City of Tustin, which requires that Barranca Parkway be constructed to its ultimate configuration, enclosed in a subsurface concrete box culvert. Peter's Canyon Channel would be improved to accommodate the 100-year high confidence storm event. Specially, Peters Canyon Channel is required to be widened approximately 40 feet and improved with concrete sides and a soft bottom.

Regulatory History on Tustin MCAS- In 2002, the City of Tustin obtained authorization from the Corps of Engineers to discharge fill materials into waters of the U.S. associated with the extension of Armstrong Avenue from Barranca Parkway northerly to Valencia Avenue under Nationwide Permit 14 (File No. 200200381-YJC). The authorization was renewed in 2004. In 2005, Vestar Development received authorization to discharge fill materials into waters of the U.S. in association with a commercial development on the northern corner of Barranca Parkway and Jamboree Road.

Preliminary Analysis of Alternatives- The applicant analyzed three alternatives besides the proposed project. The three alternatives involve avoidance of all waters of the U.S. (Alternative I);

avoidance of Drainage B, which possess the most natural wetlands (Alternative II); and avoidance of Barranca Channel (Alternative III).

Alternative I involves avoidance of 2.24 acres of waters of the U.S. through construction of 16 bridges and provision of setbacks. According to the applicant, this alternative would cost an additional $96 million, reduce developable acreage by 217 acres (~26% of the project area), and adversely affect the implementation of gravity-fed water and sewer lines across the drainages given the project site's flat topography. The applicant has determined this alternative not practicable in light of logistics and costs.

Alternative II involves avoidance of 0.42 acres of wetlands by not directly discharging fill into the most natural wetland feature on the project site. The alternative involves construction of 3 bridges and the provision of setbacks. According to the applicant, this alternative would cost an additional $13.5 million, reduce developable acreage by 63 acres, and adversely affect the implementation of a gravity-fed water and sewer lines across the avoided drainages given the project site's flat topography. The applicant has determined this alternative not practicable in light of logistics and costs. The avoided 0.42-acre wetland would be surrounded by development on all sides.

Alternative III involves the avoidance of impacts to 1.19 acres of Barranca Channel, a riprap lined channel along Barranca Parkway. This would be achieved by not widening Barranca Parkway from six to eight lanes. According to the applicant, given the lack of open space on the southwest side of Barranca Parkway, avoiding Barranca Channel can only be achieved by not widening Barranca Parkway. By not widening Barranca Parkway, adverse traffic conditions would develop due to the bottlenecked segment along Tustin MCAS that lines between existing eight-lane segments to the northwest and southeast. The applicant has determined this alternative not practicable in light of logistics.

Off-site alternatives were not examined in light of the existing condition of the on-site aquatic resources as evaluated by the landscape level functional assessment performed as part of the San Diego Creek Special Area Management Plan. Off-site alternatives are not expected to identify locations that would have less environmental impacts to aquatic resources.

Compensatory Mitigation- Peters Canyon Channel would be temporarily impacted by the widening project. After the regional widening improvements are complete, the soft bottom of Peters Canyon Channel would be replaced at the pre-existing contours. Therefore, the applicant proposes that the temporary impacts to 13.88 acres of Peters Canyon Channel would be self-mitigating at a 1: 1 ratio. Peters Canyon Channel would be widened 40 feet along the length of the channel from Barranca Parkway to the Metrolink rail crossing. The top slope would be widened to approximatelly 80 feet and the soft-bottom of the channel would be widened to approximately 117 feet. The entire channel would be maintained by the OCFCD. The widening of Peters Canyon Channel is estimated to create approximately 8 acres of additional soft-bottom channel, as shown on the attached sample cross section (Figure 4). The exact acreage of created soft-bottom would depend on the final installation of the improvements but would not be less than 5.44 acres. Mitigation for impacts to un-vegetated drainages, vegetated drainages, and Barranca Channel is proposed to occur through the widened Peters Canyon Channel. Table 4 summarizes the proposed mitigation for permanent impacts. A habitat mitigation and monitoring plan would be submitted to the Corps for approval.

Table 2. Proposed compensatory mitigation for permanent impacts on the Tustin Legacy Master Developer Site.

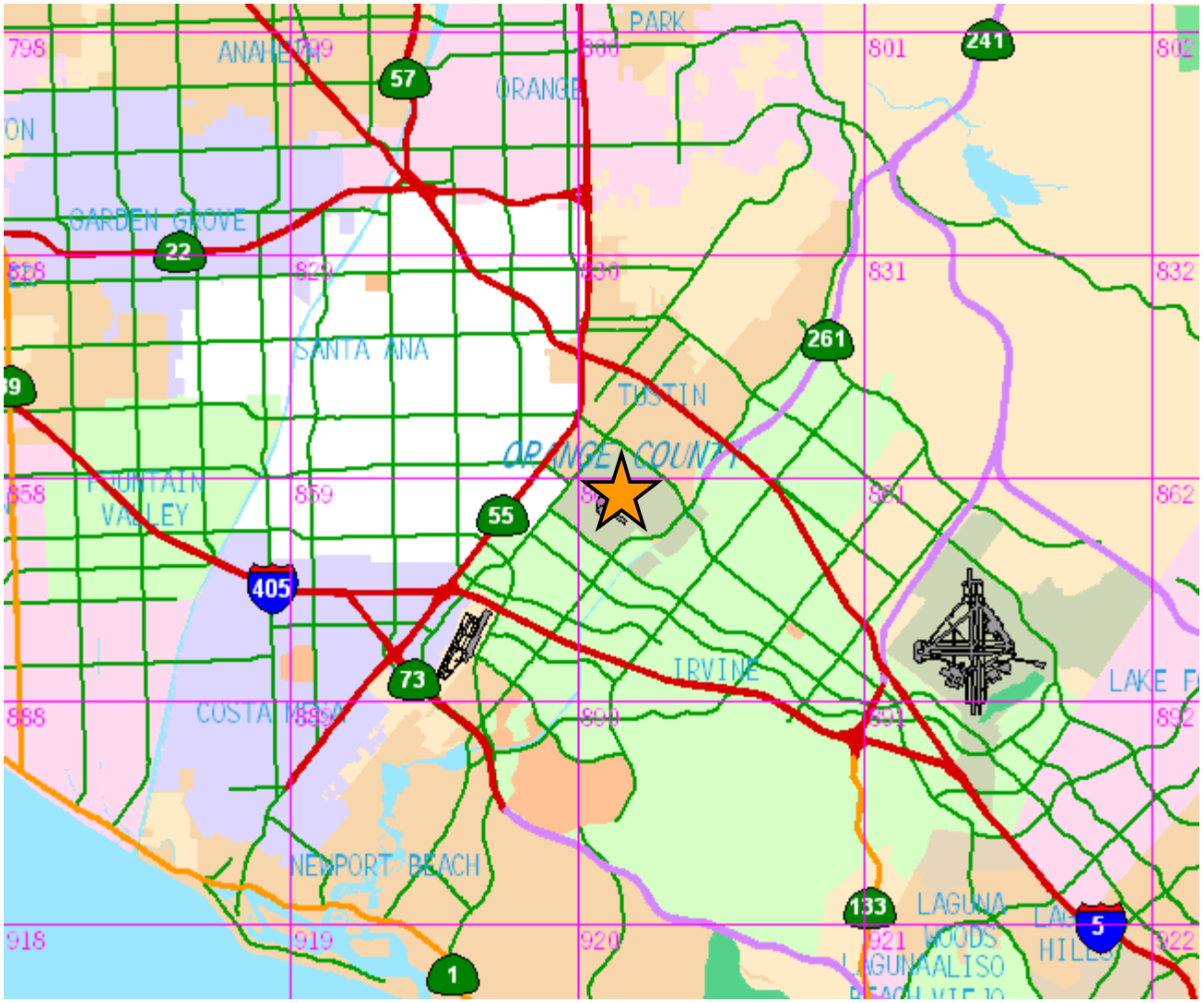
Drainage	Impact Acreage	Mitigation Ratio	Total Acreage and

			Location
Barranca Channel and unvegetated Santa Ana/Santa Fe Channel Riparian Ditches B and 3	1.30 0.06 0.57	1:1	1.93 in widened portion of Peters Canyon Channel
Valencia/Armstrong Improvements	0.31	2:1	0.62 in widened portion of Peters Canyon Channel
Total	**2.24**		**2.55**

Proposed Special Conditions

None proposed at this time.

For additional information please call Jae Chung of my staff at (213) 452-3292. This public notice is issued by the Chief, Regulatory Branch.



DATA SOURCE: The *Thomas Guide* Digital Edition 2003

TUSTIN MARINE BASE

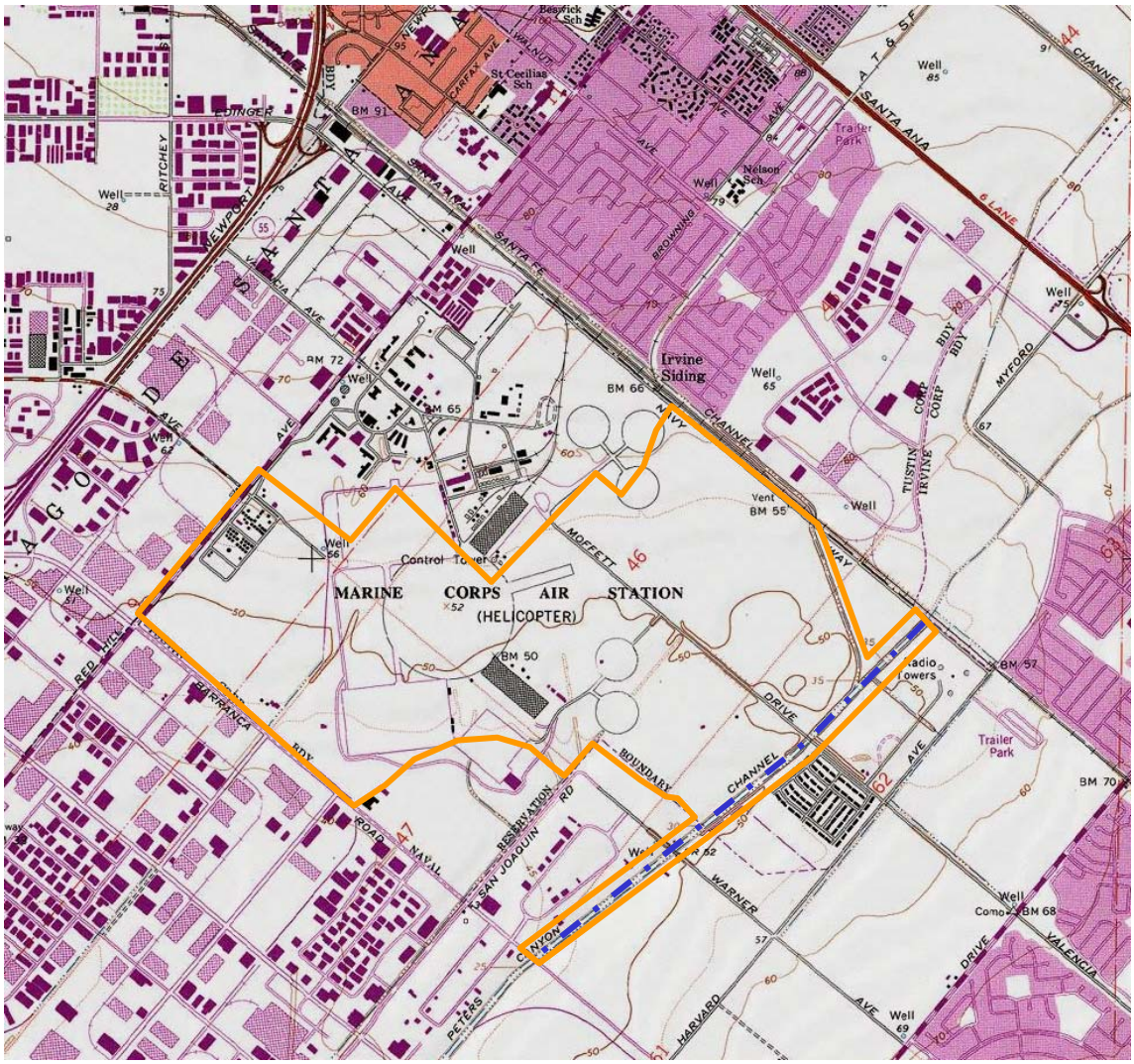
REGIONAL LOCATION MAP

★ *approximate project location*

VANDERMOST CONSULTING SERVICES, INC.
27312 Calle Arroyo
San Juan Capistrano, CA 92675
(949) 489-2700
fax (949) 489-0309

N

FIGURE 1



DATA SOURCE: National Geographic Maps Topo! 2000

TUSTIN LEGACY

U.S.G.S. 7.5-Minute Quadrangle Map

TUSTIN Quadrangle

Approximate Master Developer Site Boundary

Limits of Peters Canyon Channel Within The City of Tustin (From The City Boundary To The Metrolink Crossing)

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27312 Calle Arroyo
San Juan Capistrano, CA 92675
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N

FIGURE 2

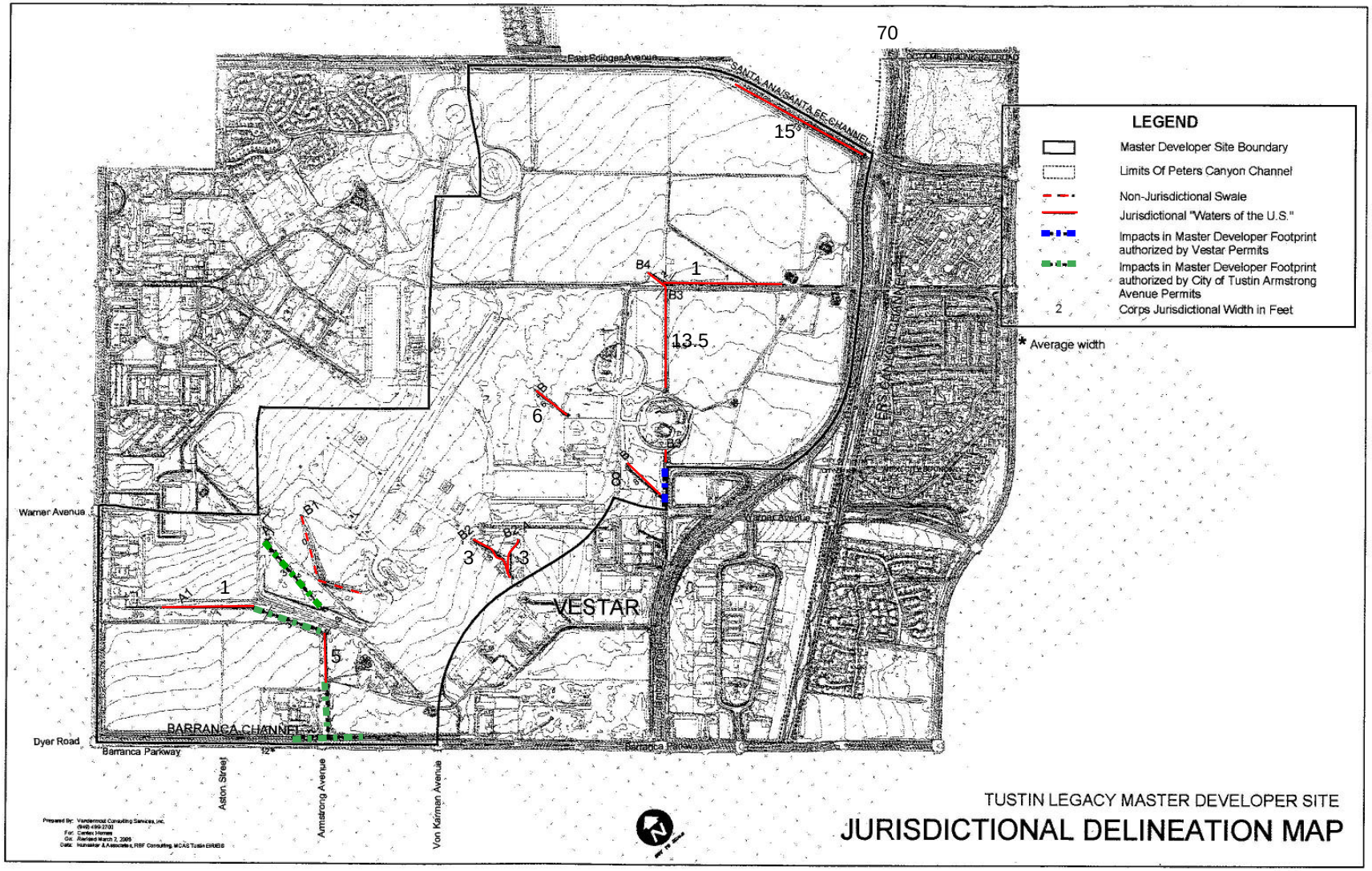
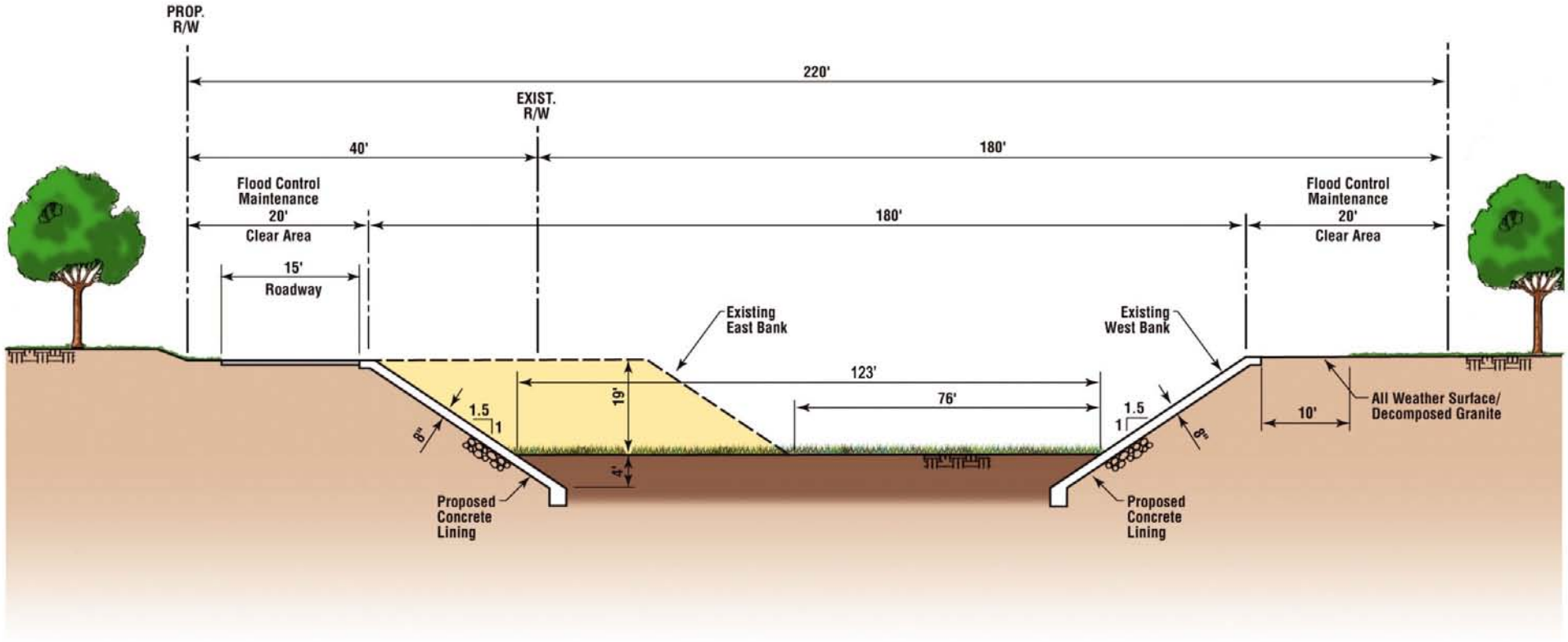

70
East Bridger Avenue
SANTA ANA/SANTA FE CHANNEL
15
B4
1
B3
13.5
6
8
Warner Avenue
B1
B2
3
3
A1
1
VESTAR
5
BARRANCA CHANNEL
Dyer Road
Barranca Parkway
Aston Street
Armstrong Avenue
Von Karman Avenue
PETERS CANYON CHANNEL
LEGEND
Master Developer Site Boundary
Limits Of Peters Canyon Channel
Non-Jurisdictional Swale
Jurisdictional "Waters of the U.S."
Impacts in Master Developer Footprint authorized by Vestar Permits
Impacts in Master Developer Footprint authorized by City of Tustin Armstrong Avenue Permits
2
Corps Jurisdictional Width in Feet
* Average width
TUSTIN LEGACY MASTER DEVELOPER SITE
JURISDICTIONAL DELINEATION MAP

FIGURE 3



Peters Canyon Channel (Looking Downstream)

Note: This is a conceptual drawing. The west bank of the channel north of Moffett and south of Edinger may not be altered due to deed restrictions.

Figure 7

TUSTIN LEGACY

Peters Canyon Channel Recommended Alternative

RBF CONSULTING

not to scale

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